



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

MAR 27 2014

OFFICE OF WATER

Ms. Kristy A. N. Bulleit
Hunton & Williams, LLP
2200 Pennsylvania Avenue, N.W.
Washington, D.C. 20037-1701

RE: Freedom of Information Act Request EPA-HQ-2014-003218

Dear Ms. Bulleit:

This letter is in response to your Freedom of Information Act request dated January 31, 2014, to the U.S. Environmental Protection Agency requesting records pertaining to the EPA's Endangered Species Act Section 7 consultation with the National Marine Fisheries Service and the U.S. Fish and Wildlife Service (collectively, the "Services") concerning the EPA's final regulation to establish requirements for cooling water intake structures at existing facilities under Section 316(b) of the Clean Water Act.

Specifically, you requested:

Any and all documents and records of communications, including attachments and supporting materials, between EPA and Riverkeeper, Sierra Club, Natural Resources Defense Council, Center for Biological Diversity, American Littoral Society, Southern Alliance for Clean Energy, Environment America, Earthjustice, Delaware Riverkeeper Network, New York/New Jersey Baykeeper, Casco Baykeeper, Los Angeles Waterkeeper, or the Waterkeeper Alliance, relating to informal or formal ESA Section 7 consultation between EPA and the Services with respect to issuance of EPA's "Final Regulations to Establish Requirements for Cooling Water Intake Structures at Existing Facilities and Amend Requirements at Phase I Facilities," from October 31, 2013, through the date of the final regulation's issuance.

In an email dated February 27, 2014, Kerry McGrath from your office clarified the scope of your request to pertain to documents from October 31, 2013, through January 31, 2014.

The only documents responsive to your request are the October 31, 2013, comment letter and supporting documents from the Super Law Group on behalf of Riverkeeper and the other organizations specified in your FOIA request. The EPA is releasing all of these documents, which are listed in the enclosure. Ten of the 54 documents, however, will not be uploaded to

FOIA Online because they are copyright protected. The EPA will send the copyrighted documents to you under separate cover.

An itemized invoice covering the charge for processing your request is enclosed. Please forward your check or money order, made payable to the U.S. Environmental Protection Agency, within 30 days of the date of this response. Your check should refer to the FOIA number above and should be accompanied by the top portion of the enclosed Bill for Collection. Your prompt payment of the amount indicated will be appreciated. In a continued effort to streamline the FOIA process, the EPA is now offering you the option of paying your FOIA bill online. There is no requirement for you to use the online system to pay your bill, but if you choose to do so please go to www.pay.gov and follow the simple instructions. Please be sure to have your FOIA number available so that the payment can be applied to the correct charge.

This letter and the enclosed information conclude the EPA's response to your FOIA request. You may appeal this response to the National Freedom of Information Officer, U.S. EPA, FOIA and Privacy Branch, 1200 Pennsylvania Avenue, N.W. (2822T), Washington, DC 20460 (U.S. Postal Service Only), FAX: (202) 566-2147, E-mail: hq.foia@epa.gov. Only items mailed through the United States Postal Service may be delivered to 1200 Pennsylvania Avenue, NW. If you are submitting your appeal via hand delivery, courier service or overnight delivery, you must address your correspondence to 1301 Constitution Avenue, N.W., Room 6416J, Washington, DC 20001. Your appeal must be made in writing, and it must be submitted no later than 30 calendar days from the date of this letter. The Agency will not consider appeals received after the 30 calendar day limit. The appeal letter should include the tracking number listed above. For quickest possible handling, the appeal letter and its envelope should be marked "Freedom of Information Act Appeal."

Please contact Julie Hewitt at 202-566-1031 or hewitt.julie@epa.gov should you have any additional questions concerning this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "R. K. Wood", is written over a horizontal line.

Robert K. Wood, Director
Engineering and Analysis Division

Enclosures

Enclosure

Brief description	Exemption status
Comments from Riverkeeper to EPA and the Services Regarding ESA Biological Evaluation for CWA Section 316(b) Rulemaking	Release
RiverKeeper Comments on EPA Proposed 316(b) Rule, EPA-HQ-OW-2008-0667	Release
RiverKeeper Comments on EPA Proposed 316(b) Rule, EPA-HQ-OW-2008-0667, Appendix A	Release
RiverKeeper Comments on EPA Proposed 316(b) Rule, EPA-HQ-OW-2008-0667, Appendix B	Release
RiverKeeper Comments on EPA Proposed 316(b) Rule, EPA-HQ-OW-2008-0667, Appendix C	Release
RiverKeeper Comments on EPA Proposed 316(b) Rule, EPA-HQ-OW-2008-0667, Appendix D	Release
2011 List of Plants Operating with Expired NPDES Permits	Release
EPA OIG Report "Oversight of North Carolina's Renewal of Thermal Variances" May 9, 2011	Release
River Keeper et al. Report "Treading Water: How States Can Minimize the Impact of Power Plants on Aquatic Life" September 2013	Release
B.L. England Generating Station Draft NJPDES Permit, March 28, 2013	Release
B.L. England Generating Station Final NJPDES Permit, June 17, 2013	Release
Claytor Hydroelectric Project Fish Entrainment and Impingement Assessment, January 2009	Release
Letter from NMFS to EPA Concerning Columbia Generating Station, May 7, 2012	Release
Letter from NMFS to NRC Concerning Columbia Generating Station, June 11, 2012	Release
FWS Concurrence with NRC Biological Assessment for Columbia Generating Station, June 13, 2012	Release
Freshwater Use by U.S. Power Plants, Union of Concerned Scientists, November 2011	Release
Palm Beach Post Article, January 14, 2012	Release
NMFS Biological Opinion for St. Lucie Power Plant, May 18, 2001	Release
Table of Coal-fired Power Plants Using Once Through Cooling with Endangered Species Impacts	Release
Giant Fish Blenders Report, Sierra Club, 2012	Release
NMFS Final Indian Point Biological Opinion	Release
Jeremy S. Mitchell et al. Abundance of <i>Dreissena polymorpha</i> and <i>Dreissena bugensis</i> in a warmwater plume: effects of depth and temperature, <i>Can. J. Fish. Aquat. Sci.</i> 53 : 1705,1712 (1996).	Release (Copyrighted)
M. Anouk Simard et al. North American range extension of the invasive Asian clam in a St. Lawrence River power station thermal plume. <i>Aquatic Invasions</i> (2012) Volume 7, Issue 1: 81–89.	Release (Copyrighted)
Biological Assessment for Mt. Tom NPDES Permit, 2012	Release
Second Report: Damage from Superstorm Sandy to Horseshoe Crab Breeding and Shorebird Stopover Habitat on Delaware Bay Report to: New Jersey Natural Lands Trust, December 7, 2012	Release

Salem Generating Station Report on Impingement of Shortnose Sturgeon, August 1, 2013	Release
Salem Generating Station Report on Impingement of Atlantic Sturgeon, March 29, 2013	Release
Jerre W. Mohler et al. 2012. Growth and Survival of Hatchery-Produced Atlantic Sturgeon Released as Young-of-Year into the Hudson River, New York. <i>Journal of Fish and Wildlife Management</i> 3(1):23-32; e1944-687X. doi: 10.3996/012011-JFWM-005.	Release (Copyrighted)
J. Jed Brown & Gregory W. Murphy. 2010. Atlantic Sturgeon Vessel-Strike Mortalities in the Delaware Estuary, <i>Fisheries</i> , 35:2, 72-83	Release (Copyrighted)
Atlantic Sturgeon: Listing Under the ESA. NMFS. March, 2015.	Release
Sturgeon Progress Report. Delaware DNRDC. June 30, 2011 (2 copies on Riverkeeper DVD, one of which is mistitled "December 2011")	Release
Sturgeon Progress Report. Delaware DNRDC. January 3, 2012.	Release
Sturgeon Progress Report. Delaware DNRDC. November 30, 2012.	Release
Delaware River Dredging Biological Opinion. July 11, 2012.	Release
Atlantic sturgeon in the Delaware River: contemporary population status and identification of spawning areas Completion Report: Award NA05NMF4051093	Release
Appendix II: Diadromous Fish Maps	Release
K. J. Dunton et al., Genetic mixed-stock analysis of Atlantic sturgeon <i>Acipenser oxyrinchus oxyrinchus</i> in a heavily exploited marine habitat indicates the need for routine genetic monitoring. <i>Journal of Fish Biology</i> (2012) 80, 207–217.	Release (Copyrighted)
Atlantic sturgeon in the Delaware River: contemporary population status and identification of spawning areas. (Final Report). Completion Report: Award NA05NMF4051093	Release
Atlantic sturgeon (<i>Acipenser oxyrinchus oxyrinchus</i>) in the New York Bight DPS: Identification of critical habitat and rates of interbasin exchange. NOAA Award NA08NMF4050611 Final Report December, 2010.	Release
Mohler JW et al. Growth and survival of hatchery-produced Atlantic sturgeon released as young-of-year into the Hudson River, New York. <i>Journal of Fish and Wildlife Management</i> x(x):xx-xx; e1944-687X. doi: 10.3996/012011-JFWM-005.	Release (Copyrighted)
Sturgeon Progress Report. Delaware NNREC. June 2011.	Release
Matthew W. Breece. Migratory Behavior and Riverine Distribution of Spawning Atlantic Sturgeon in the New York Bight. Master's Thesis. 2012.	Release (Copyrighted)
MAFMC Total Effort by Gear Type (No author or source)	Release
Matt Fisher, DNREC-DFW. Power Point Presentation. Atlantic Sturgeon Habitat Regarding Water Quality Requirements in the Delaware River. (File is labeled "Draft not to be shared or referenced.")	Release
Draft Environmental Assessment Delaware River Main Channel Deepening. June 2011. Delaware Department of Natural Resources and Environmental Control Division of Fish and Wildlife (DFW) Comments Regarding Atlantic Sturgeon, Oysters & Horseshoe Crabs	Release

NRDC Comments on Draft NMFS Biological Opinion for Northeast Multispecies. July 19, 2013.	Release
The Horrors of Sturgeon Matrimony in the Delaware Estuary Scutes of Death. Matt Fisher, Delaware Division of Fish and Wildlife. Dewayne Fox and Matt Breece, Delaware State University.	Release
Atlantic sturgeon in the Delaware River: contemporary population status and identification of spawning areas. <i>Completion Report: Award NA05NMF405109.3</i>	Release
Atlantic Sturgeon References Bibliography	Release
Delaware River Keeper Network comment letter to NMFS. June 12, 2012.	Release
Delaware River Keeper Network comment letter to NMFS. April 6, 2012.	Release
N Madden et al. Thermal effluent from the power sector: an analysis of once-through cooling system impacts on surface water temperature, Environmental Research Letters 8 (2013) 035006 (8pp) doi:10.1088/1748-9326/8/3/035006.	Release (Copyrighted)
Ariel Miaral et al. Riverine ecosystem services and the thermoelectric sector: strategic issues facing the Northeastern United States. Environmental Research Letters 8 (2013) 025017 (11pp) doi:10.1088/1748-9326/8/2/025017.	Release (Copyrighted)
Robert J Stewart et al. Horizontal cooling towers: riverine ecosystem services and the fate of thermoelectric heat in the contemporary Northeast US. Environmental Research Letters 8 (2013) 025010 (10pp) doi:10.1088/1748-9326/8/2/025010.	Release (Copyrighted)

